REMARKS

Claims 1 – 23 are pending in the instant application. In the office action mailed May 19, 2005, the Examiner allowed claims 7 – 23. Applicants appreciate the Examiner's recognition of the allowability of these claims. In the office action mailed May 19, 2005, the Examiner rejects claims 1 – 5 and objects to claim 6. Based on the remarks made herein, Applicants respectfully request that the rejections and objection be withdrawn and that claims 1 – 6 be passed to allowance.

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Response to Rejections

By way of the Office Action mailed May 19, 2005, claims 1 – 5 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated and thus unpatentable over U.S. patent number 5,635,191 to Roe *et al.* (hereinafter "*Roe*"). This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegall Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987); M.P.E.P. § 2131. *Roe* fails to teach each and every element of claim 1 of the present invention, either expressly or inherently, and is therefore an improper basis for an anticipation reference. This rejection should be withdrawn.

Applicants' claim 1 requires a composition having a Tangent Delta value of from about 0.10 to about 0.65 measured over a temperature range of 35 to 40 degrees Celsius. *Roe* does not teach a composition having this value and therefore fails to anticipate Applicants' claim 1. This rejection should be withdrawn.

In rejecting claim 1, the Examiner contends that *Roe* discloses the specifics of the composition as fully explained in the rejection of claim 7, thereby providing a composition that will yield similar results when subjected to the Tangent Delta Measurement Procedure. (OA at page 3). This is a non sequitur as the Examiner has acknowledged that the prior art fails to anticipate an absorbent article having the composition of claim 7. Therefore, this is not a proper basis for rejection of claim 1.

The Examiner further states that "it is noted that the features upon which applicant relies (i.e., the composition of the present invention) are not recited in the rejected claims." (OA at page 4). Applicants are not relying on limitations from the specification being read into the claims. Applicants only discussed the composition of claim 7 with regard to claim 1 as a rebuttal of the Examiner's reliance on the composition of claim 7 to reject claim 1 as noted above.

The Examiner cites M.P.E.P. § 2113 regarding product-by-process claims. Claim 1 is NOT a product-by-process claim. It appears that the Examiner is really making an inherency

argument. However, the Examiner has not provided a rationale or evidence tending to show inherency as required. The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. M.P.E.P. § 2112(IV). Moreover, inherency may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. M.P.E.P. § 2112(IV). Accordingly, the Examiner has neither provided a rationale nor evidence tending to show that *Roe* inherently anticipates the present invention. For at least these reasons, Applicants respectfully submit that independent claim 1 is patentable over *Roe*. Moreover, claims 2-6, which depend from independent claim 1, are also patentable over *Roe*.

Please charge any prosecutional fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (920) 721-3016.

Respectfully submitted,
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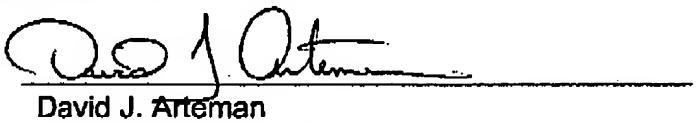
By: 

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